

Title	Governmental and Family Law: New and Revised Forms for Initiating and Processing Child Support Cases (revise and renumber form 1299.01; adopt <i>Order to Show Cause (Governmental)</i> (form FL-683)).
Summary	The revised form would reflect changes to make the forms and procedures more understandable to the litigants and to more accurately track statutory language. The revisions would also renumber the form and make some minor corrections in their formatting. The new form would provide an <i>Order to Show Cause</i> form specifically adapted to governmental support actions.
Source	Family and Juvenile Law Advisory Committee
Staff	Michael L. Wright, 415-865-7619 Ruth K. McCreight, 415-865-7666 Rita G. Mah, 415-865-7670
Discussion	<p><i>Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)</i> (form 1299.01, proposed to be renumbered as form FL-600) would be revised to modify the notice language regarding the right to object to the matter being heard by a commissioner and the procedure to do so. These changes would make the notice conform better to the provisions of Family Code section 4251. The form would also be changed to allow for additional space to list a greater number of children in item 1 to avoid the need for attachment sheets.</p> <p><i>Order to Show Cause (Governmental)</i> (form FL-683) would be a new <i>Order to Show Cause</i> form for governmental actions and would include the mandatory notice provision of Family Code section 4251 regarding objecting to a Title IV-D child support commissioner.</p>
	Attachments

Family Code, §§ 2330.1, 17400, 17402, 17404, 17428, 17430

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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11. That the court order the parents to complete a *Child Support Case Registry Form* (form FL-191) and send (deliver or mail) it to the local child support agency within 10 days.

12. That the court order the obligor to make all payments to (*specify*):

13. That the other parent be added as a party to this case.

14. Number of pages attached: _____

<p style="text-align: center;">NOTICE</p> <p style="text-align: center;">IF YOU WANT LEGAL ADVICE, CONTACT A LAWYER IMMEDIATELY.</p> <p style="text-align: center;">A Statement of Rights is attached to this document. Please read it carefully.</p>
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Date:

_____		_____
(TYPE OR PRINT NAME)		(ATTORNEY FOR LOCAL CHILD SUPPORT AGENCY)

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case will act as a temporary judge unless, *before the hearing*, you or any other party objects to the commissioner acting as a temporary judge. The court commissioner may still hear your case to make findings and a recommended order. If you do not like the recommended order, you must object to it within 10 court days; otherwise, the recommended order will become a final order of the court. If you object to the recommended order, a judge will make a temporary order and set a new hearing.

Each superior court has a family law facilitator's office to provide education, information, and assistance to parents who have child support issues. The basic duties of the family law facilitator include:

- Providing educational materials;
- Distributing court forms;
- Providing assistance in completing forms;
- Preparing child support guideline calculations; and;
- Providing referrals to the local child support agency, family court services, and other community agencies.

The family law facilitator is a neutral person whose services are available to any person who is NOT represented by an attorney. Both parties in the same case may receive assistance from the family law facilitator. There is no attorney-client privilege between any person assisted by the family law facilitator, and matters discussed with the family law facilitator are not confidential. No person can be represented by the family law facilitator.

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
OTHER PARENT:	

STATEMENT OF RIGHTS AND RESPONSIBILITIES

NOTICE to the defendant: The proposed *Judgment* will be entered against you unless you file your written *Answer to Complaint or Supplemental Complaint Regarding Parental Obligations* (form FL-610) with the court clerk within 30 days of the date you were served with the *Complaint*. The proposed *Judgment* will be entered whether or not you have a lawyer. If you were served with a form telling you the date of a court hearing, you should go to court on that date. An order may be entered without your input if you do not attend the hearing.

AVISO al Demandado: El juicio propuesto será incorporado contra Usted a menos que Usted clasifique su respuesta escrita a la Queja o Suplemental con respecto a la obligación pariental (formulario FL-610) con el actuario de la corte dentro de 30 días de la fecha que le sirvieron la Queja. El juicio propuesto será incorporado aunque Usted tenga o no tenga abogado. Si le sirvieron con un formulario que le indica la fecha de una audiencia de corte. Usted debe ir a corte esa fecha. Una orden se puede incorporar sin su aviso o consulta si Usted no asiste a la audiencia.

NOTICE TO BOTH PARENTS

The local child support agency has sued both of you to determine whether you are the parents of the children listed and if one or both of you should be ordered to pay child support. The local child support agency does not represent any individual in this lawsuit, including either parent or the children. Carefully read this statement and the other papers that you received.

You have the right to be represented by a lawyer. If you dispute that you are the parent of the children listed in the *Complaint* and you do not have enough money for a lawyer, you may ask the court to appoint a lawyer to represent you on the issue of parentage.

☐ Other information about court-appointed lawyers (specify):

A blank *Answer to Complaint or Supplemental Complaint Regarding Parental Obligations* (form FL-610) is included in the papers that were served on you. If you did not receive an *Answer* form or if you would like another copy, you may get one from the local child support agency, the court clerk's office, or the family law facilitator. The family law facilitator can assist you in filling out the *Answer* form. **You must file your *Answer* form with the court clerk within 30 days of the date you were served with the *Complaint* whether or not you obtain an attorney.**

Settling Out of Court

You may contact the local child support agency to try to work out a settlement agreement. However, you must still file an *Answer* form within 30 days. If you and the local child support agency can reach an agreement regarding the requests made in the *Complaint*, you may sign a settlement agreement called a STIPULATION. By signing a stipulation, you are agreeing to give up your rights explained in this statement, you are agreeing that you are the parent of the children listed in the *Complaint*, and you are agreeing to obey all of the terms of the stipulation. The stipulation will become a court order that you must obey.

Going to Court

If you file your *Answer* form, you have the right to a court hearing, to subpoena witnesses, to ask questions of any witness against you, and to present evidence on your behalf. Genetic tests may be performed if the defendant questions parentage of the children listed in the *Complaint*. If the defendant refuses to cooperate in the genetic testing process, the issue of parentage may be resolved against the defendant. The costs of the genetic testing may be charged to one of you.

This case may be referred to a court commissioner for hearing. By law, court commissioners do not have the authority to issue final orders and judgments in contested cases unless they are acting as temporary judges. The court commissioner in your case **will** act as a temporary judge unless, **before the hearing**, you or any other party objects to the commissioner's acting as a temporary judge.

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	
OTHER PARENT:	

The court commissioner may still hear your case to make findings and a recommended order. If you do not like the recommended order, you must object to it within 10 court days; otherwise, the recommended order will become a final order of the court. If you object to the recommended order, a judge will make a temporary order and set a new hearing.

You can object to the commissioner's acting as a temporary judge in one of two ways: (1) by telling the commissioner in court, at the start of your hearing, that you object or (2) by delivering a written objection to the court clerk. You must object **before** the hearing in your case begins. You do not have to give a reason for your objection.

All orders for support must contain an earnings assignment. If you are obligated to pay support, this assignment will require your employer or other payor to deduct support payments from your salary or earnings and send the payments to the local child support agency. Your employer may also be required to enroll your children in a health insurance plan and deduct the cost from your salary or earnings.

Any amounts you owe may be collected from your property, whether or not you are current in your payments toward past due support. Collection may be made by taking money owed to you by the state or federal government (such as tax refunds, unemployment and disability benefits, and lottery winnings), by taking property you own, by placing a lien on your property, or by any other lawful means. You may be fined or imprisoned if you fail to pay support as ordered.

If the local child support agency does not know how much money the obligor (parent asked to pay support) earns, he or she is presumed to earn enough money to pay the amounts stated in item 6b of the proposed *Judgment* (form FL-630).

OTHER IMPORTANT INFORMATION

Both parents should tell the local child support agency everything they know about the other parent's earnings and assets.

The defendant is always a party to this action. If the other parent has requested or is receiving services from the local child support agency, that parent will become a party to the lawsuit filed by the local child support agency after the initial support order or medical support order is entered by the court. After the other parent has become a party to the lawsuit either parent may then ask the court to decide issues concerning support, custody, visitation, and restraining orders (domestic violence). No other issues may be raised in this

lawsuit. Either parent may go to court to modify the court order. The local child support agency cannot bring proceedings to establish or modify custody, visitation, or restraining orders.

After the other parent has become a party to the lawsuit, either parent may go to court to enforce the existing order against the other, but must first notify the local child support agency as required by law. The local child support agency is allowed 30 days to determine whether or not a parent will be permitted to proceed with the enforcement action against the other parent. The local child support agency may deny a parent permission to proceed if it is currently taking enforcement action or if the action by a parent would interfere with an investigation. If the local child support agency does not respond to the notice by the parent seeking enforcement within 30 days or if the local child support agency notifies the parent seeking enforcement that the enforcement action can proceed, the parent may then file the enforcement action as long as all support is paid through the local child support agency.

If the custodial person receives public assistance, the local child support agency may agree to settle any parentage or support issue in this lawsuit without providing advance notice to the custodial person. A child support agency may not settle any child support issue without the consent of any parent who is an applicant for child support services and who does not receive public assistance.

The local child support agency is required, under Section 466(a)(13) of the Social Security Act, to place in the records pertaining to child support the social security number of any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment. This information is mandatory and will be kept on file at the local child support agency.

Your family law facilitator is available to help you with any questions you may have about the above information. You can reach your family law facilitator by telephone at:

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or in person at:

For more information on finding a lawyer or family law facilitator, see the Self-Help Web site:
www.courtinfo.ca.gov/selfhelp/.

